IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 3093 of 2004

Between:

N. Bala Narasimhulu S/o. N.C.Pamuleti, Adi Andhra Aided Elementary School, Residing at Parmapalli Village, Bandi, Atmakur Mandal, Kurnool District.

... PETITIONER

AND

1 The Government of Andhra Pradesh rep., by its Secretary, School Education

Department, Secretariat Buildings, Hyderabad.
2 The Commissioner and Director of School Education, Saifabad, Hyderabad.
3 The District Educational Officer, Kurnool.
4 The Correspondent, Adi Andhra Aided Elementary School, C.C.Palem, Bandi

Atmakur Mandal, Kurnool District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents 1 to 3 in not giving effect to the proceedings RC.No.9746/B2/2000 dated 26.3.2003 for absorption of the petitioner into vacant aided post from the date of post fell vacant i.e., 1.7.2000 in Adi Andhra Aided Elementary School, G.C.Palem, Nandyal, Kurnool District, as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents to release the entire arrears of salary attached to the said post by giving effect to the Absorption Proceedings RC.No.9746/B2/2000 dated 26.3.2003 from the date of post fell vacant i.e., 01-072000 in Adi Andhra Elementary School, Nandyal.

Counsel for the Petitioner: MR.G.LAKSHMI

Counsel for the Respondents 1 to 4: GP FOR EDUCATION

The Court made the following order:

ORDER:

The petitioner was appointed as S.G. Assistant Teacher in an un-aided post in Adi Andhra Upper Primary School, Bandi Atmakur, Kurnool District, vide proceedings of the District Educational Officer, Kurnool dated 18.02.1997. The said institution was also receiving Grant-in-Aid from the Government from time to time.

The petitioner took charge of the said post on 19.02.1997. Subsequently one Aided S.G.T post fell vacant on 30.06.2000 at Adi Andhra Aided Elementary School, G.C. Palem, due to the retirement of Smt.K.Jaya Seelamma on attaining the age of superannuation. Therefore, a proposal sent by the Correspondent to absorb the petitioner into the vacant Aided post was considered by the District Educational Officer. The District Educational Officer submitted the proposals to the Commissioner and Director of School Education as per the rules. Ultimately, the said proposals were accepted and petitioner was absorbed from the un-aided into S.G.T. Aided post vide proceedings dated 26.03.2003 of the District Educational Officer as per G.O.Ms.No.100 Education (P.S.I) Department dated 16.08.2001. The

petitioner's service was regularized with effect from 26.03.2003 and absorption with effect from 30.06.2000 in Aided post was not considered in view of the service conditions imposed by G.O.Ms.No.75, Education (PS-2) Department dated 23.09.2002 and the executive proceedings of the Commissioner and Director of School Education dated 24.09.2002. Aggrieved by the said action of the respondents the petitioner filed a representation on 29.08.2003. As the said representation was not considered the petitioner filed the present writ petition for a declaration that he is entitled for absorption from the date on which the post fell vacant i.e., 01.07.2000 by considering his case on par with the orders passed by the Government in Memo.No.14515/P2-3/2002-5 Education (PS) Department dated 28.10.2002 wherein a similar case of Mr.A.Venkata Ramana was considered and he was absorbed to the Aided post from the date of his appointment.

It is stated that the as per the orders of the Government in G.O.Ms.No.100 Education (P.S.I) Department dated 16.08.2001 rule 12 (4-A) issued in G.O.Ms.No.180 dated 29.12.2000 was amended by adding the words "requiring to undergo apprenticeship course for a period of two years". Initially the period of apprenticeship was four years, which was amended reducing it to two years. The petitioner is also subjected to undergo two years apprenticeship.

It is the case of the petitioner that he need not undergo apprenticeship as per G.O.Ms.No.100 and he is entitled to be absorbed in the Aided post from 01.07.2000 though he was absorbed with effect from 26.03.2003. In support of his contention he relied on the orders of the Government in Memo.No.14515/P2-3/2002-5 Education (PS) Department dated 28.10.2002 wherein Mr.A. Venkata Ramana was absorbed in the Aided post, which fell vacant on 01.01.2001. Though the absorption was much later to the said date, the Government considered his case in view of the orders of the Government in G.O.Ms.No.1 Education (PS-2) Department dated 01.01.1994 and G.O.Ms.No.75 Education (PS-2) Department dated 23.09.2002 wherein the Government permitted to fill up the vacant post.

Admittedly, the petitioner alone was working in the un-aided post as against the vacancy of the Aided post. Therefore, in view of the said orders of the Government, I am of the opinion that the petitioner is entitled to be considered for absorption with

effect from 01.07.2000 as per the orders issued in G.O.Ms.No.75 Education (PS-2) Department dated 23.09.2002 and is also eligible for the salary for the Aided post from the date the post fell vacant i.e., 01.07.2000. Insofar as the conditions imposed to undergo two years training in respect of the case of the absorbed petitioners this Court held that G.O.Ms.No.180 Education dated 29.12.2000 and G.O.Ms.No.100 Education dated 16.08.2001have no application as the service of the petitioner treated in the Aided post, which fell vacant from 01.07.2000 by which date these two G.Os were not in existence. As a consequence thereof the absorption of the petitioner in the aided post shall be treated as not on apprenticeship and he shall be paid the salary attached to the post in which he was absorbed.

Accordingly, the writ petition is allowed. No costs.

_____

V. ESWARAIAH, J

September 30, 2004

Dsk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Thursday the Thirtieth day of September Two Thousand and Four.

To

1 The Secretary, Government of Andhra Pradesh, School Education

Department, Secretariat Buildings, Hyderabad.
2 The Commissioner and Director of School Education, Saifabad, Hyderabad.
3 The District Educational Officer, Kurnool.
4 The Correspondent, Adi Andhra Aided Elementary School, C.C.Palem, Bandi

Atmakur Mandal, Kurnool District.

5 Two CCs to GP For Education, High Court Buildings, Hyderabad (OUT)

6 Two CD copies.